

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY,
FLORIDA – CIVIL DIVISION
CASE NO.: 2024-022769-CA-01
SECTION: CA 03
(Hon. Ariana Fajardo Orshan – recused)

KP INVESTMENTS MIAMI, LLC,
Plaintiff,

v.

MARIO MIRABAL (Ariana Birencwajg),
Defendants.

_____/

NOTICE OF DEEMED GRANT OF DISQUALIFICATION AND
REQUEST FOR STAY PENDING FEDERAL AND RELATED
PROCEEDINGS

TO: The Honorable Nushin G. Sayfie, Chief Judge
Eleventh Judicial Circuit, Miami-Dade County, Florida

Defendant, Mario Mirabal, appearing pro se and as Attorney-in-Fact for co-Defendant Ariana Birencwajg, respectfully submits this Notice of Deemed Grant of Disqualification pursuant to Florida Rule of General Practice and Judicial Administration 2.160(f), and requests that all further proceedings in this matter be stayed pending resolution of jurisdictional matters now before the United States District Court, the Eleventh Circuit Court of Appeals, and the Hon. Javier Enriquez in Case No. 2018-018704-CA-01.

I. DISQUALIFICATION DEEMED GRANTED UNDER RULE 2.160(f)

On June 22, 2025, Defendant filed and served a Verified Motion to Disqualify the Honorable Judge Ariana Fajardo Orshan, pursuant to Florida Rule of Judicial Administration 2.160.

As of the date of this Notice, more than 30 days have passed without a ruling on that motion. Under Rule 2.160(f), where a judge has not entered an order granting or denying the motion within 30 days of service:

“The motion shall be deemed granted, and the moving party may seek an order from the chief judge.”

Accordingly, disqualification is now self-executing as a matter of law, and this Court is formally notified that the case must be reassigned.

II. REQUEST FOR STAY PENDING RELATED ACTIONS

In light of the now-granted disqualification, Defendant respectfully requests that the Chief Judge exercise her inherent administrative authority to:

Issue an administrative stay of all proceedings in this matter, including but not limited to:

Depositions;

Hearings or trial dates;

Motions to compel, sanction, or for summary judgment;

Maintain such stay pending outcome of:

Defendant's Rule 1.540(d) motion in Case No. 2018-018704-CA-01, which seeks to reinstate a 2020 final dismissal with prejudice that extinguishes the title interest asserted in this ejectment case;

Multiple pending federal appeals before the U.S. Court of Appeals for the Eleventh Circuit, involving overlapping parties, evidence, and property interests, as well as Rule 60(d)(3) filings and sealed submissions under the False Claims Act.

III. GROUNDS FOR STAY

This case is entangled with matters of federal jurisdiction, due process violations, fraudulent title conveyance, and state-federal conflict. Continued litigation at the trial level risks prejudicing ongoing federal review and final adjudication in:

Appeals already pending before the Eleventh Circuit;

Sealed federal proceedings involving Deutsche Bank and its assigns;

The state foreclosure case that forms the basis for Plaintiff's ejectment claim.

Failure to stay these proceedings risks irreparable procedural harm and institutional conflict between court rulings.

IV. PRAYER FOR RELIEF

Defendant respectfully requests:

That the Hon. Nushin G. Sayfie recognize that disqualification has been deemed granted under Rule 2.160(f);

That this case be reassigned accordingly;

That all proceedings in this matter be administratively stayed pending final adjudication of:

The pending Rule 1.540(d) motion in Case No. 2018-018704-CA-01;

All active Eleventh Circuit appeals and associated federal filings concerning

the same property.

Respectfully submitted,

/s/ Mario Mirabal

Mario Mirabal (pro se)

Attorney-in-Fact for Ariana Birencwajg

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Dated: July 22, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Florida Courts E-Filing Portal on this 22nd day of July, 2025, to:

John Cunill, Esq.

Counsel for Plaintiff